

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

RASHEE DONELL JOHNSON,

Petitioner,

v.

ACTION NO. 2:19cv462

HAROLD W. CLARKE,  
Director of the Virginia  
Department of Corrections,

Respondent.

**FINAL ORDER**

Petitioner Rashee Donell Johnson (“Johnson”) has submitted a *pro se* petition pursuant to 28 U.S.C. § 2254. ECF No. 1. Johnson alleges his federal rights were violated when he was convicted in the Circuit Court of the County of Henrico on June 10, 2016 of distribution of heroin and possession with intent to distribute an imitation controlled substance. *Id.* at 1, 59. Johnson was sentenced to forty years in prison with thirty-six years suspended. *Id.*

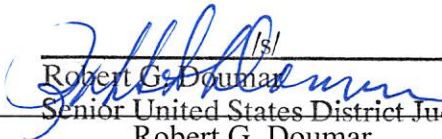
The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed April 10, 2020, recommends that respondent’s motion to dismiss (ECF No. 7) be granted, and the petition for writ of habeas corpus (ECF No. 1) be denied and dismissed with prejudice. ECF No. 13. Each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge, and no objections have been filed.

The Court, having reviewed the record, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that respondent's motion to dismiss, ECF No. 7, is **GRANTED**, and the petition for a writ of habeas corpus, ECF No. 1, is **DENIED** and **DISMISSED** with prejudice.

Johnson has failed to demonstrate a "substantial showing of the denial of a constitutional right," and, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

Johnson is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Johnson intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Final Order. Johnson may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk shall mail a copy of this final order to Johnson and counsel of record for respondent.

  
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Robert G. Doumar  
Senior United States District Judge  
Robert G. Doumar  
Senior United States District Judge

Norfolk, Virginia  
May 18, 2020